

JPA File No.: 07-039
AG Contract No.: P0012007-002095
Project: Lighting & Maintenance
Section: SR -89A Cement Plant Rd
Blackhills Drive
TRACS No.: H4129 01C

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
TOWN OF CLARKDALE

THIS AGREEMENT is entered into this date 19th of October, 2007, pursuant to the Arizona Revised Statutes § 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the TOWN OF CLARKDALE, acting by and through its MAYOR and TOWN COUNCIL (the "Town").

I. RECITALS



1. The State is empowered by Arizona Revised Statutes § 28-401 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.

2. The Town is empowered by Arizona Revised Statutes § 9-240 & 48-572 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the Town.

3. Incident to a State project on SR 89A for roadway reconstruction and capacity additions from Cement Plant Road to Black Hills Drive, the Town will maintain 3-1/2 new roundabouts located at Scenic Drive and Groseta Ranch Road (1/2 roundabout), Lisa Street and Lincoln Drive, Avenida Centerville and Valley View Drive, Clarkdale Parkway and Cement Plant Road lying within the boundary of the Town of Clarkdale. Specifically, the Town will maintain street lights (including providing electrical power) and weed control at these roundabouts, collectively hereinafter referred to as the "Project".

4. The parties hereto agree should any change or modification to the Project will only occur with mutual written consent of both parties.

THEREFORE, in consideration of the mutual covenants expressed herein, it is agreed as follows:

NO. 29332
Filed with the Secretary of State
Date Filed: 10/19/07

Secretary of State
By: 

II. SCOPE OF WORK

1. The State shall:

a. Prepare and provide design plans, specifications and other such documents and services required for construction bidding and construction of the Project, submit plans to the Town for their appropriate comments.

b. Advertise for bids and award one or more construction contract(s) for the Project. Administer the Project and make all payments to the contractor(s). Be responsible for contractor claims for additional compensation caused by Project delays attributable to the State.

c. Upon completion of the Project perform the final inspection and notify the Town in writing that the Project has been constructed in accordance with the proper specifications and has been completed.

2. The Town shall:

a. Review the design documents required for construction of the Project, and provide comments to the State as appropriate.

b. All costs attributable to any engineering change orders requested by the Town shall be the sole responsibility of the Town.

c. Be responsible for contractor claims for additional compensation caused by Project delays attributable to the Town.

d. Upon completion of the Project, provide maintenance and electrical power for said lights; provide weed control in roundabouts using accepted horticultural practices.

III. MISCELLANEOUS PROVISIONS

1. The terms, conditions and provisions of this Agreement shall remain in force and effect until completion and reimbursements; provided herein. However, any provisions for *electrical power, and lighting maintenance* provided by the Town shall be perpetual. This Agreement may be cancelled at any time prior to the award of a Project construction contract, upon thirty-day (30) written notice to either party. It is understood and agreed that, in the event the Town fails to budget or provide for *electrical, power maintenance, and weed control*, as set forth in this Agreement, the State shall in no way be obligated to maintain said Project.

2. This Agreement shall become effective upon filing with the Secretary of State.

3. This Agreement may be cancelled in accordance with Arizona Revised Statutes § 38-511.

4. The provisions of Arizona Revised Statutes § 35-214 are applicable to this Agreement.

5. In the event of any controversy, which may arise out of this Agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.

6. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail, addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 S. 17th Avenue, Mail Drop 616E
Phoenix, Arizona 85007
(602) 712-7525
(602) 712-7424 Fax

Town of Clarkdale
Attn: Gayle Mabery
890 Main Street
Clarkdale, Arizona 86324
Phone # 928-634-9591
Fax # 928 634-0407

7. This Agreement is subject to all applicable provisions of the Americans with Disability Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable Federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

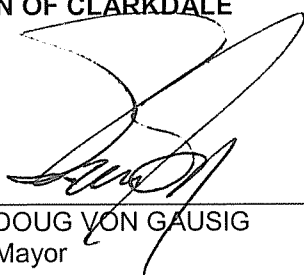
8. Non-Availability of Funds: Every payment obligation of the State under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligations. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments as a result of termination under this paragraph.

9. In accordance with Arizona Revised Statutes § 11-952 (D) attached hereto and incorporated herein is the written determination of each party's legal counsel and that the parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

TOWN OF CLARKDALE

By

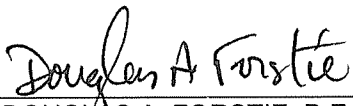


DOUG VON GAUSIG
Mayor

STATE OF ARIZONA

Department of Transportation


By

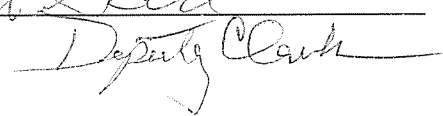


DOUGLAS A. FORSTIE, P.E.
Deputy State Engineer, Operations

ATTEST:

By




Clerk 

CERTIFICATION OF APPROVAL

I hereby certify that on September 11, 2007 the Mayor and Common Council of the Town of Clarkdale met in Regular Council Session and approved the following item:

Arizona Department of Transportation Intergovernmental Agreement -
Acceptance of an intergovernmental agreement for maintenance of
roundabouts.

I further certify that the meeting was duly called and held and that a quorum was present.

 9/28/07

Walt Good

Date

Deputy Town Clerk
Town of Clarkdale

**ATTORNEY APPROVAL FORM
FOR
THE TOWN OF CLARKDALE**

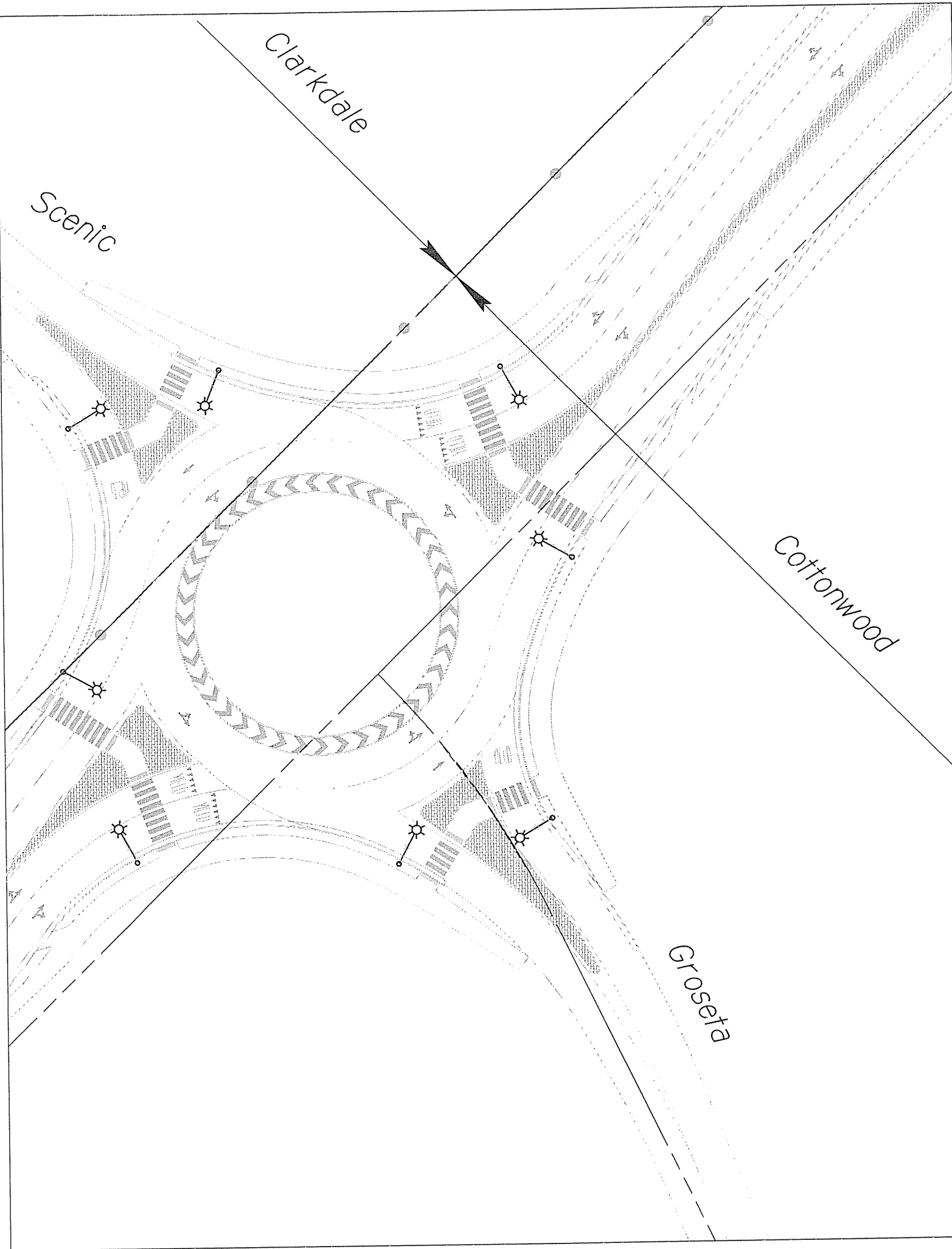
I have reviewed the above referenced Intergovernmental Agreement between the State of Arizona, acting by and through its DEPARTMENT OF TRANSPORTATION, and the **TOWN**, an Agreement among public agencies which, has been reviewed pursuant to A.R.S. § 11-951 through § 11-954 and declare this Agreement to be in proper form and within the powers and authority granted to the **TOWN** under the laws of the State of Arizona.


No opinion is expressed as to the authority of the State to enter into this Agreement.

DATED this 14 day of Sept, 2007.



Attorney



<p>TERRY GODDARD Attorney General</p>	<p> OFFICE OF THE ATTORNEY GENERAL STATE OF ARIZONA</p>	<p>CIVIL DIVISION TRANSPORTATION SECTION Writer's Direct Line: 602.542.8855 Facsimile: 602.542.3646 E-mail: Susan Davis@azag.gov</p>
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INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. P0012007002095 (**JPA 07-039**), an Agreement between public agencies, i.e., The State of Arizona and Town of Clarkdale, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: October 15, 2007

TERRY GODDARD
Attorney General



SUSAN E. DAVIS
Assistant Attorney General
Transportation Section

SED:mjf:76870
Attachment